

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE	Case No. 08-13555 (JMP)
LEHMAN BROTHERS HOLDINGS, INC., et. al.	Chapter 11
Debtor.	

RESISTANCE AND RESPONSE TO DEBTORS' THREE HUNDRED  
TWENTY-NINTH [#29324] OMNIBUS OBJECTION TO CLAIMS

TO THE HONORABLE JAMES M. PECK  
UNITED STATES BANKRUPTCY JUDGE:

COMES NOW the creditor, Charles L. Kuykendall, by and through his attorneys, Dwyer & Wing, P.C. and for resistance and response to the objection to claim No. 5487 states as follows:

1. The claimant has submitted a claim for funds held by the Debtor since approximately 1994 which are derived from a deferred compensation agreement entered into while this creditor was employed by E. F. Hutton, which is not the Debtor ("Debtor" as used in this document refers to Lehman Brothers Holdings, Inc. aka "LBHI"), is not Lehman Brothers, Inc. (hereafter "LBI"), and to the best of the knowledge of the claimant was never an affiliate of the Debtor and was not a corporate predecessor of the Debtor.

2. The claim was filed by the claimant *pro se* and the category of claim indicated was under 11 U.S.C. Section 507(a)(5) since the money being held by the Debtor was from a deferred compensation plan with E. F. Hutton, but did not state or assert that the claim arose as a result of employment with the Debtor and the claimant specifically asserts that he was never an employee of the Debtor, was never an employee of LBI and until recently did not know that the funds he agreed to place in a deferred compensation plan with his then employer were not

transferred in full to his then current employer, Smith Barney, in 1994 when it was acquired by Citigroup.

3. The claimant denies that his claim is subject to re-classification or being divided into priority and unsecured claims and specifically:

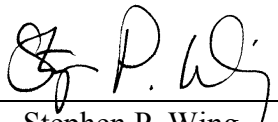
- a. The debtor is factually in error in the allegations regarding this claim as established by the claim documents and the documents filed in response to the Debtor's 173<sup>rd</sup> Omnibus Objection to Claims which are incorporated by this reference.
  - b. The Debtor has failed to allege the class in which the claim is alleged to have been placed in error.
  - c. The Debtor has failed to state the classification under the Plan into which the debt is proposed to be re-classified if the objection/motion is granted.
  - d. The Debtor has failed to resolve the pending objections under the 173<sup>rd</sup> Omnibus Objection to claims and has continued hearing on such objection *sine die*, so that a resolution as to this does not result in resolution of proceedings with regard to this claim and does not specifically propose to allow this claim in the minimum amount of the cap alleged with regard to Section 507(a)(4) in the amount of \$10,950.
  - e. This motion constitutes a continuation of a pattern of abuse by the Debtor in making objections as a means of disposing of potentially valid claims *en masse* without having to address the merits or provide any evidence as to the basis for its objections.
4. It is misleading for the Debtor to allege that it has never sought the relief

previously since the pending 173<sup>rd</sup> Omnibus Objection to Claims also seeks to eliminate this claim as a liability of the Debtor.

5. For all of the reasons stated above, the objection to claim #5487 must be denied.

WHEREFORE the creditor, Charles L. Kuykendall, prays that the court overrule and deny the objection to claim #5487 and grant such other and additional relief as may be proper in the circumstances.

CHARLES L. KUYKENDALL

By:   
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Certificate of Service

The undersigned certifies under penalty of perjury that he is 18 years of age or older, and that a copy of his document was served electronically on parties who receive electronic notice through CM/ECF as listed on CM/ECF's notice of electronic filing on August 7, 2012.

\_\_\_\_\_/s/\_\_\_\_\_  
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